

**REMARKS**

This application has been carefully reviewed in view of the above Final Office Action. Reconsideration in view of the following is respectfully requested.

**Regarding the drawings**

No reference was made in the Final Office Action to the drawings, so it is presumed that the amendment to the specification to add reference to element 640 was an appropriate remedy to the prior objection.

**Regarding the claim amendments**

In reviewing the current Final Office Action, it is noted that the Examiner provided clarification of the nature of certain of the rejections and his interpretation of the claim language leading to such rejections. Applicant appreciates these clarifications, and has attempted to amend the claims accordingly. While the amendments appear substantial in terms of word changes, the intended meaning of the claims as filed and argued in the prior Office Action is believed to have been understood by the Examiner at the time of preparation of the current Final Office Action, in light of the Examiner's comments.

In one instance (page 2), the Examiner states that the claims do not recite a "customized EPG". Applicant respectfully disagrees because the claims do recite, for example, "*a customized startup page for an Electronic Program Guide*". It is submitted that if a portion of the EPG is customized, then it certainly follows that the EPG itself is customized. By analogy, if the first page of a book is damaged, then the book is damaged. By similar logic, if one screen of EPG is customized, then the EPG is customized. That notwithstanding, each of the independent claims has been amended to more clearly characterize that the EPG (as well as the startup page) is customized.

The Examiner further states on page 2, to paraphrase, that there is no suggestion when the EPG is being displayed. The independent claims have been further amended to clarify the sequence of events, via their cause and effect relationship with one another, in order to address this concern.

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In another instance (page 3), the Examiner notes, to paraphrase, that the claims should specify that the startup page appears during initial startup. Applicant intended that this meaning be embraced by the term "startup" as used in the claims and as explained in the specification (e.g., page 7, lines 15-16). However, to assure that the meaning is clear, Applicant has amended all independent claims to clarify that the request for the startup page *"is generated by the Set Top Box as a result of turning on at least one of the Set Top Box and a television receiver"*.

Based upon the Examiner's remarks, it is apparent that the Examiner understood the intended meaning of the claims but felt that the claims did not address the specifics above adequately. It is therefore submitted that entry and full consideration of these amendments is appropriate even after Final Rejection, since the Examiner has no doubt accounted for this intended meaning in conducting his search and examination.

With these amendments, it is believed that the intended meaning of the claims is clarified so that there can be no room for misinterpretation. With these clarifications, Applicant respectfully requests reconsideration of the arguments below (taken in large part directly from the prior response). The claims are submitted to be allowable and the arguments considered valid, when interpreted in light of the clarified meaning of the "startup" page as one that is generated as a result of "turning on" the Set Top Box and/or a television receiver, the clarification of the "customized" terminology, and the clarification of the ordering.

Applicant has also clarified certain of the arguments below to assure that his position is clear. In many instances, italics and/or underlining has been used to emphasize the areas of clarification of the arguments for the convenience of the Examiner. It is noted, for the sake of brevity, that any reference to a "startup" page in the arguments below should be taken to include the clarified meaning of "startup", i.e., in the context of generating a request for the startup page as a result of turning on a television and/or a STB, as is now clearly embodied in the claim language.

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### **The Wu Reference**

As understood by Applicant after significant study, and additional review in light of the Final Office Action, Wu describes a system in which a "matching Web page" associated with a selected television segment can be easily displayed without need to embed an Internet address within the content. The only examples of such a "matching Web page" that the undersigned could identify anywhere in Wu were given in Col. 6, lines 19-33, which states in relevant part:

*"For example, the selected Web page may include advertising information or fill-in order forms targeted at a user fitting the interest profile of the particular client viewing a particular portion of video data on a particular channel during a particular time. As another example, the selected Web page may include personalized stock market information to be displayed by the system 12 (FIG. 1) in parallel with a portion of video data including stock market news."*

Wu's process is carried out by:

First:

- a television channel being viewed at the client site is identified;
- the time at the client site is determined.

This information uniquely identifies the segment of television programming being viewed.

Next:

- this information is compared with electronic program schedule information in order to identify the program segment by a "channel content ID" (Fig. 4);
- a user profile (Fig. 5 or 6) is used in conjunction with the channel content ID to map the channel content ID to at least one Web address (Fig. 6 or 7);
- this web address can then be used to link to a "matching Web page" in order to permit the user to access the page (see above for the only examples given of a matching Web page).

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An overview of Wu's process can be gleaned from the Summary of the Invention. Further details are provided in several embodiments in Wu's specification and drawings.

Thus, Wu accomplishes his stated objective of "providing a method and apparatus automatically accessing and displaying a predetermined Web page associated with a selected television programming segment." (e.g., see col. 2, lines 11-16.) Wu does not contain any suggestion that such a Web page could be a customized EPG used as a startup page, *that starts when the television and/or STB is turned on as claimed.*

#### **Applicant's invention**

Applicant's invention, in an illustrative embodiment, seeks to provide a customized user startup page for an electronic programming guide. *This startup page is generated at a time of the user turning on a television and/or STB.* This is desirable in view of the large number of programs available to a subscriber in a modern television subscription such as a cable television system. In one embodiment, this is accomplished by:

- having a television set-top box associated with a user send a request to a service provider *when the STB or the television is turned on;*
- the service provider then finds a user profile corresponding to the user in a user database; this profile can contain the user's location, viewing preferences, etc.;
- a link to content is generated based upon the user profile which can, for example, provide information relating to the user's viewing preferences; and
- the startup page is generated using the link to content identified by the user's profile; this startup page can be provided at startup in order to quickly access the user's preferred content most efficiently. *The startup page is, thus, a direct result of turning on the television and/or STB.*

In this manner, the user is provided with an EPG startup page that is likely to identify the content most desired by the user from the massive amounts of content available.

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**Regarding the rejections under 35 U.S.C. §102**

Claims 1-5, 9-14 and 19 were rejected under 35 U.S.C. §102 as anticipated by Wu et al. (Wu – U.S. Patent No. 6,326,982).

From the above summaries, it can be seen that there is little if any functional relationship between Wu and embodiments of the present invention. Wu serves a completely different purpose in a completely different manner than Applicant's invention. A close examination of Wu also reveals that although several similar steps, acts or elements appear in Wu, those steps, acts and elements are interrelated in a different way, *with the steps being triggered by differing events*, in order to carry out a completely different function.

Regarding claim 1, the Office Action asserts that *"Wu discloses receiving a request for the startup page (See Column 10, Lines 1-5 for sending user ID, time and channel parameters in order to receive a startup web page (see Column 2, Lines 20-22)) from a set-top box associated with a user (see Column 4, Lines 40-43))."* Applicant respectfully disagrees as follows:

- *Wu makes no disclosure of a startup page which appears when the television or STB is turned on.*
- *At Col. 10, Lines 1-5, a user ID and a time parameter and a selected channel are received by the server. This, however, has nothing to do with a startup page (one that appears as a result of the STB and/or television being turned on) as clearly claimed in the amended claims. It is only related to identifying a segment of programming at the particular client site. *This segment of programming has already been selected in some manner and is playing. This is inconsistent with a "startup page", in accordance with the clarified meaning – since the page generated by Wu is a result of having already tuned to a channel.* If one follows the functional path of the flow chart of Fig. 9, it is readily seen that this information is used at steps 240 and 242 to identify a "matching Web page" associated with the current programming (i.e., a program that is currently being*

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*viewed, and thus cannot be associated with a startup function as claimed in the amended claims) as described above.*

- Col. 2, Lines 20-22 forms a part of the objective of Wu's invention spanning lines 19-26. A full, in-context reading of these lines indicates that Wu simply wishes to associate a Web page with a currently playing segment of content without need to encode an Internet address within the programming. *Wu fails to deal in any way with a startup page consistent with the claim language.*

The Office Action further states at page 4 that *"since the web page displayed along with the television program corresponds to the actual television content, then the web page itself is a "link to content" (see Column 8, Lines 10-13 ...)." The undersigned fails to follow this logic, but notes that claim 1 requires that the startup page at least include a link to content, where such content was identified using the user's profile. The undersigned finds no suggestion of either a startup Hub page or it's potential content in Wu.*

As best the undersigned can determine, Wu's disclosure has nothing to do with generating a startup Hub page consistent with Applicant's disclosure and claims, *particularly as amended for clarification.* In order to establish a *prima facie* case of anticipation, it is the Examiner's burden to establish that a single reference teaches each and every claim element arranged as in the claim, as interpreted by one of ordinary skill in the art. In the present case, the Office Action fails to meet this burden since (at least):

1. The Wu reference fails to teach each element of the claims (there is no teaching or suggestion of a startup Hub page, or request for same *that occurs as a result of turning on a television and/or a STB*, containing links to content derived from a user profile);
2. The Wu reference's elements that happen to match the claim elements are not arranged as required by the claims (e.g., *there is no linking associated with a startup as described, thus, although there may be*

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*"finding a profile" and "generating a link" in Wu, it is not per the claim's arrangement which makes the request as a result of turning on the television and/or STB. As originally claimed, the term "startup" has been given a broader interpretation than intended. When properly considered, there is no doubt that the Wu reference falls short.); and thus*

3. One of ordinary skill in the art would not be placed in possession of the claimed invention by Wu.
4. Additionally, Wu fails to recognize the problem (*providing a startup page*) or provide any solution to it, much less the solution provided by Applicant.

Accordingly, it is submitted that Wu fails to provide any teaching adequate to anticipate claim 1. Reconsideration of claim 1 is respectfully requested.

Similar arguments are applicable to claims 2-5, 9-14 and 19. Accordingly, reconsideration and allowance of these claims are respectfully requested.

#### **Regarding the rejections based on 35 U.S.C. §103**

It is noted that the above shortcomings of the Wu reference are equally applicable to the present obviousness rejections. Accordingly, all of the above arguments are also applicable to all remaining rejections since Wu is used as the basis of each rejection.

Regarding the rejection to claims 6-8, 15 and 17-18, the Office Action states that Wu discloses "querying a database to obtain a matching web page based on a user profile". However, Wu fails to do so in order to provide a link to content in a startup page as required in claims 1 and 11. Accordingly, reconsideration is requested.

It is further noted, in connection with all rejections based upon the combination of Wu and Mighdoll (U.S. patent No. 6,332,157) that the Office Action asserts that *"it would have been obvious to a person of ordinary skill in the art, to modify the database used*

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*to provide links to content, as taught by Wu, using a plurality of remote databases accessible over the Internet used to provide links to content, as taught by Mighdoll."*

Again, Applicant respectfully disagrees. The Wu reference, at col. 4, lines 20-21, describes his invention as incorporating *"a dedicated server 34 which is operative to provide Web/TV programming schedule mapping information."* This server provides the only remote database activity describe in Wu. Wu's description of the server 34 as being "dedicated" suggests that the server is in place for the sole purpose of servicing the types of requests taught by Wu, and in essence teaches away from any need to search additional sources on the Internet, contrary to the Office Action's assertion. It is further noted that the information supplied by server 34 of Wu is different than that used in Applicant's claims, as described above. *Additionally, it is believed that there is no teaching in Wu as to how server 34's database is updated (modified), and thus no suggestion that Mighdoll's teachings are relevant. For all we know, the information is manually entered, or more likely, provided directly by the content provider or advertisers (since the content provider and advertisers derive the most benefit). If this is the case, searching other servers on the Internet may in fact defeat the profit motives of Wu.*

*In order to establish prima facie obviousness, there must be some suggestion to make the proposed combination. The above point about the term "dedicated" is that Wu makes no disclosure of any other function of the server 34 than to provide web/TV program schedule mapping information. Wu's server 34 provides all of this functionality without disclosure of a connection to other databases on the Internet (It is "dedicated"). Its function is specifically described by Fig. 9B.*

*Wu accomplishes his objectives, in part, by use of the dedicated server 34. While perhaps the references can be combined as suggested, that suggestion must come from the art. Since Wu achieves all of his objectives with a "dedicated" server 34, and there is no teaching as to how the content of server 34 is provided (see step 240) there is no such suggestion. It is noted that the fact that references can be combined is not the standard, there must be a motive in the art. Applicant does not assert that there is something about Wu that prohibits access other servers or databases (see page 4,*

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lines 9-12 of the Final Office Action), only that there appears to be no disclosure to support such access, no need for such access disclosed in Wu and thus no motivation to make the modification. There is no disclosure in the art of a "deficiency" in a system such as Wu, as described on page 4 of the Final Office Action, lines 5-9. The deficiency, it is respectfully submitted, is a product of improper hindsight analysis, and not a suggestion in the art of the need for such a combination or modification. (see MPEP 2143.03)

Additionally, it is noted that the Office Action fails to point out why one of ordinary skill in the art would have been motivated by the art to make the proposed combination. The Office Action merely alleges that the combination would be obvious "for the purpose of updating a web page." In order to establish *prima facie* obviousness, there must be some motivation to one of ordinary skill in the art to make such a combination – the fact that the combination can be made is not enough. Moreover, in this case, even if the combination were made, the claim limitations would not be met for the reasons given above. Thus, since each and every claim limitation must be considered, the combination further fails to establish *prima facie* obviousness.

For the reasons stated above, Reconsideration and allowance of claims 6-8 are respectfully requested.

Regarding claims 16 and 20-25, each of the above statements regarding Wu are equally applicable since the shortcomings of Wu are not accounted for in the proposed combination. For example as discussed above, Wu does not in fact teach creation of a startup Hub page as taught and claimed, nor does Wu teach populating such a startup Hub page with links to content as taught and claimed.

Additionally, it is respectfully submitted that again the Office Action has failed to provide a line of reasoning as to why one of ordinary skill in the art would have been motivated by the art to make the proposed combination. The Office Action merely alleges that the combination would be obvious "for the purpose of providing text,

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*images, sound and video on-demand in a simple intuitive manner akin to traditional television programming for mass market consumers.” In order to establish prima facie obviousness, there must be some motivation to one of ordinary skill in the art to make such a combination – the fact that the combination can be made is not enough. (see MPEP 2143.03) It is again noted that Wu merely provides a mechanism to link a “matching Web page” associated with a selected television segment to the segment without need to transmit a link along with the television segment. The reason given above for making the combination would appear to be unrelated to Wu’s objectives and teachings, and the manner for making the combination is unclear. Reconsideration and allowance of claims 16 and 20 are respectfully requested.*

Regarding claims 21-25, the above arguments are applicable. Reconsideration and allowance are requested.

Regarding the use of the term “default”, the Examiner has apparently selected a dictionary.com definition for interpretation of the term. This definition is not wholly inappropriate, except that it assumes that the setting is assigned by an operating system, which may or may not be the case. The undersigned submits that another definition is found in Webster’s II New College Dictionary, 1995 edition which defines “default” as “a setting or action assumed by a computer when none is specified by the user”. In this case, while a particular page or template may be specified by the user, the particulars of such a page or template may be established as a default. Either case can be considered to be a default. *To clarify, in either case, once a default page or template is established (either by user definition, or as a predefined default), it is the default unless overridden (or redefined again) by the user. Clearly, default actions can be predefined, redefined, redefined again, and overridden without any inconsistency in the well understood meaning of the term “default”.*

*A simple analogous example may be illustrative. Consider a word processor in which a default letter style is predefined upon receipt by the consumer. The consumer*

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*may find that margin changes are needed so as not to overwrite portions of a letterhead. These margins can be user changed and set to be the new default. The fact that the user changed them does not mean that they are not a "default", it simply means that a new default has been established.*

The undersigned hopes that the clarifications to the claims and arguments will assist the Examiner in understanding Applicant's position, and believes that these amendments and argument clarifications place the application in clear condition for allowance. Applicant additionally notes that many other distinctions exist between the cited references and the invention as claimed. However, in view of the clear deficiencies in the art as pointed out above, further discussion of these distinctions is believed to be unnecessary at this time. Failure to address each point raised in the Office Action should accordingly not be viewed as accession to the Examiner's position.

No amendment made herein was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim unless an argument has been made herein that such amendment has been made to distinguish over a particular reference or combination of references. Each of the amendments made herein were for the purposes of clarification of the claim language.

In view of this communication, all claims are now believed to be in condition for allowance and such is respectfully requested at an early date. In the event the Examiner believes that additional issues remain, the undersigned respectfully requests the courtesy of a telephone interview in order to clarify the issues prior to issuance of another Office Action. The undersigned can be reached at the telephone number below.

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Respectfully submitted,



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